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**Grover Rutter** CPA, ABV, CVA, BVAL  
Mergers, Acquisitions and Valuations

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## **Buyer Non-Disclosure, Non Compete and Confidentiality Agreement**

*Grover Rutter's agreement with the Seller requires Grover Rutter to obtain a Non-Disclosure, Non-Compete and Confidentiality Agreement with a potential Buyer before we disclose the name and location of the Seller's business. In addition, Grover Rutter requests certain financial information from potential Buyers to ascertain the Buyer's financial ability to purchase the Seller's business. Please note that a Buyer's confidential financial information will NOT BE SHARED WITH THE SELLER in the initial stages of the disposition/acquisition process. The seller will be told only that the Buyer appears to be financially qualified to receive confidential information about the Seller.*

INFORMATION provided to a Buyer about the Seller's business is sensitive and confidential. Disclosure of Seller's information by a Buyer to others would be damaging to the Seller's business and to the Intermediary's fiduciary relationship with the Seller.

### **AGREEMENT**

The undersigned prospective purchaser (herein referred to as Buyer), in consideration for receiving any information from Grover Rutter (hereafter referred to as Intermediary), and or the Seller about the Seller's business, agrees with the Intermediary and the Seller not to disclose to other individuals or entities, the name, address, type of business or identity of the Seller, except for normal disclosure to business attorneys, business accountants and advisors who the Buyer will engage in the acquisition of Seller's business. Furthermore, the Buyer agrees not to contact or solicit the Seller's customers, suppliers, professional advisors or employees for any purpose. The Buyer shall not endeavor to compete with the Seller, or cause the Seller economic harm by using any knowledge or information obtained by the Buyer from the Seller or the Seller's representatives, advisors, etc. **The term of this agreement shall be from the date the Buyer signs this Agreement, and shall end at midnight (EST) on December 31, 2013.**

1. **The term "Information"** shall also include the fact that the business is for sale and other confidential seller data. The term "information" shall include, but not be limited to processes, recipes, formulas, and other proprietary intangible or tangible asset or resource belonging to the Seller. The term "information" does not include any information which is, or becomes, generally available to the public or is already in Buyer's possession at the time of signing this agreement. In the event the purchase process is terminated, all documentation provided for the review of the Seller's business will be returned to the Intermediary without retaining any copies, summaries, analysis or extracts thereof. The Buyer agrees not to use any of the aforementioned information for any purpose except for deciding whether or not to complete a purchase of the Seller's business.

2. **Buyer will not disclose** any information regarding the Seller's businesses to any other party, except to those directly involved in the purchase or who will provide professional legal or financial

advice; in which case Buyer agrees to obtain professional advisors' consents to maintain such confidentiality under the terms of this agreement.

3. Seller is under contract with the Intermediary, and is responsible for payment of fees due to the Intermediary. However, if Buyer discloses the availability of a Seller's business to another party, and that party purchases or causes the purchase of that business without Intermediary, or if Buyer interferes with the Intermediary's right to a commission from the Seller in any manner, then Buyer agrees to be responsible for payment of Intermediary's commission **to the extent such payments have not been paid by the Seller.**

4. **All negotiations** concerning the Seller's business will be *coordinated* through Intermediary. No contact with the Seller, Employees, Suppliers, Customers, Franchiser, or Landlord, etc. is permitted without the direct written authorization of the Intermediary.

5. **The Buyer is notified herein** that, unless otherwise informed in writing, the Business Intermediary represents the Seller.

6. **Buyer will not use**, seek to use, or otherwise take unfair advantage of any trade secrets or other confidential information for Buyer's own benefit or for the benefit of any third party, and all information received will be used only for the purpose of investment or purchase of a business.

7. **All Information is provided by the Seller** and is not verified in any way by the Intermediary. The Intermediary is relying on Seller for the accuracy and completeness of said information. Intermediary has no knowledge of the accuracy of said information and makes no warranty, expressed or implied, as to such accuracy of information provided by the Seller. Intermediary may provide certain analysis of information provided by the Seller; however, Intermediary can make no representations or warranties as to the completeness and accuracy of the underlying information provided by the Seller. Buyer agrees to indemnify and hold Intermediary harmless from any claims or damages resulting from incorrect information supplied by the Seller.

8. **It is understood** that the Business Intermediary merely acts as an intermediary and cannot give accounting, tax or legal advice. If the Buyer desires such advice, he or she is advised to seek such advice from a qualified legal, accounting, tax or valuation professional.

9. **Prior to finalizing an agreement** to purchase a business, it is the Buyer's responsibility to perform due diligence and make an independent verification of information on which the Buyer is relying. Buyer will look only to the Seller and the Buyer's own investigation for all information regarding the business being represented by the Intermediary. The Buyer will personally inspect the Seller's business and will satisfy him or herself with the Buyer's ability to conduct the Seller's business; and have a clear and distinct understanding that all profits are projected in the future. Actual future profits and results of operations may differ from projected profits and results of operations; such variances may be significant. The Seller and the Intermediary make no express or implied promises as to results of future operations.

10. **The Buyer should be aware** that taking physical possession of a business prior to the legal closing may result in detrimental changes to the business and may affect the closing of the sale.

11. **The Buyer Agrees That the Business Intermediary is to receive** copies of all documents pertaining to this sale. The parties agree to instruct their respective legal advisor(s) or escrow holder to include the business intermediary in the distribution of documents pertaining to the sale.

12. **Buyer grants the right to the Seller** or the Intermediary to obtain a credit report on the Buyer and the Buyer's acquiring entity through a standard reporting agency. **The Buyer also agrees to**

**provide a resume and complete financial statement(s) of the Buyer.** Buyer understands that this information will be held in confidence and will only be used for the purpose of Seller's due diligence of the Buyer, and possibly extending credit to Buyer.

13. **Buyer represents and warrants** having the legal and expressed authority to enter into this Agreement on behalf of any entity represented, and hereby guarantees the performance of this Agreement.

14. **Buyer understands that a violation of this Agreement** could subject Buyer to legal action by Intermediary and the Seller. Buyer agrees to pay for all reasonable court costs, damages, and legal fees incurred to enforce this Agreement, or if Intermediary named herein is joined in any litigation arising out of this Agreement.

15. **Intermediary's Right To Commission** In consideration of the information furnished and presentation to the Buyer, of the places of business listed below as being available for sale or lease, I agree that should I buy, lease, manage, or come into possession of any of them within two (2) years from the date below, that I will protect the Intermediary's right to a commission. I understand that the Intermediary has a listing agreement with the business owner or their authorized agent, of the businesses listed below which provide for a commission payment. I understand that if I interfere in any way with the Intermediary's commission from the Seller, I *may* be personally liable for the payment of that commission. I understand that should I become a manager, or connected with any of the businesses listed below or should I buy, lease or rent the premises listed below, then I will also protect the Intermediary's right to a commission.

**I will not solicit existing customers, employees, or vendors of this company, and I will use said confidential information only for my consideration of the purchase of the Seller's business.**

IDENTIFICATION OF SELLER to be released after this Agreement is signed by Buyer and Intermediary.

Roofing - Siding Contractor

Grover Rutter CPA, ABV, CVA, BVAL Mergers, Acquisitions and Valuations IS CONSIDERED THE AGENCY FIRST DISCLOSING DETAILS OF THE ABOVE BUSINESS TO THE UNDERSIGNED.

*It is understood that Intermediary is representing the Seller and shall act solely on the Seller's behalf.*

**THIS IS A LEGALLY BINDING AGREEMENT. PLEASE READ IT CAREFULLY BEFORE SIGNING.**

The undersigned (Buyer) agrees to the terms of this Agreement and expressly acknowledges Reading, Understanding, and Receiving a Copy of this Document.

Please PRINT Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Home Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ E-Mail \_\_\_\_\_

Intermediary: Grover Rutter